

Two Decades of Accounting for the Missing

By Kathryn Bomberger

Twenty years ago this month, at the G-7 summit in Lyon, when US President Bill Clinton proposed the establishment of the International Commission on Missing Persons, the prospects for a sustained and effective effort to account for the tens of thousands of missing people in former Yugoslavia seemed poor. Two decades on, an integrated system – combining the establishment of dedicated institutions and legislation to address the issue of the missing, a rule of law approach, engagement of the families of the missing, and modern scientific methods – has delivered extraordinary results.

When the White House Press release announced the establishment of the International Commission on Missing Persons on 29 June 1996, there were 40,000 people missing in the Western Balkans and there was little willingness among the new authorities to devote resources to this issue in an objective, non-partisan way.

At the same time, there were multiple separate and uncoordinated efforts underway in different parts of the region, applying different methodologies and sometimes questionable professional standards.

In these circumstances the number of identifications was small, and progress was slow. As a result, many families had to live for years with the “ambiguous loss” of a loved one. . For these families the normal human process of grief was placed in suspended animation.

And this was not only a matter of personal and individual pain. The fact that so many people were missing was an obstacle to building a just peace.

After a conflict, when large numbers of people cannot be accounted for, the rule of law is challenged in a fundamental way. Citizens rightly question the credibility of authorities that cannot or will not establish what happened to thousands of their fellow citizens and who cannot or will not take steps to bring those responsible for disappearances to justice.

Finding the missing is about helping survivors, but it is also about upholding the rule of law; it is about ensuring that those who were responsible are brought to justice. It is about preventing any attempt to cover up the crime or to deny that it happened.

Clandestine graves are crime scenes. They contain evidence that can be used in court. Accounting for the missing helps citizens access their right to truth, justice, and reparation.

This doesn't apply only to citizens who have lost family members. It applies to *all* citizens – because as long as some are denied justice, all are denied justice.

Under domestic and international law, survivors have a right to know the truth about what happened to their loved ones. The authorities do not *choose* to support efforts to account for the missing: they are *obliged* to support these efforts. Police, judicial officials and others – from the municipal counter-clerk to the head of government – have a mandatory obligation to support families of the missing.

And that support has to go beyond expressions of sympathy.

In Bosnia and Herzegovina today there are hundreds of court orders related to missing persons cases that are pending: the authorities must allocate resources and personnel to these cases. This is not simply an administrative backlog – it is an agenda for restoring and upholding justice in this country.

In October 2004 the BiH Parliamentary Assembly enacted the Law on Missing Persons. Among other things, the law requires the authorities to establish *within one year* a Fund for the Families of the Missing, which will disburse financial assistance to survivors, many of whom are among the country's most vulnerable citizens.

A dozen years after passage of the Law, the Fund has not yet been established.

In the course of the last two decades, more than 70 percent of those who were missing across the region have been accounted for: in order to account for the remaining 12,000 missing persons, governments must:

- Ensure that families of the missing, regardless of their ethnic religious or national origin, or their role during the conflict, have equal rights to the truth, to justice and to reparations – which means enacting and implementing relevant laws;
- Create a central, verifiable record of missing persons from the regional conflict – which means that states must complete their own record and then create a regional list: this will provide a truthful accounting and help to secure the rights of survivors;
- Expedite investigations and court proceedings related to missing persons cases: these cases are about injustices in the past, but they are also – and this is very important – about justice in the present; and
- Address the issue of misidentifications (this applies particularly in Bosnia and Herzegovina, Croatia and Kosovo, where mortuaries are holding large numbers of unidentified human remains).

Implementing this agenda would help tens of thousands of citizens to move forward and rebuild their lives.

Kathryne Bomberger is Director-General of the International Commission on Missing Persons